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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/017,768

12/12/2001

James Parr

57095-5010

6865

423

7590

04/04/2005

HENKEL CORPORATION
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GULPH MILLS, PA 19406

EXAMINER

CHANNAVAJALA, LAKSHMI SARADA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No:

10/017,768

Applicant(s)

PARR ET AL.

Examiner

Lakshmi S. Channavajjala

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Receipt of amendment and remarks dated 12-30-04 is acknowledged.

Claims 1-4 and 16-25 are pending in the instant application.

Response to Arguments

Applicant's arguments filed 12-30-04 have been fully considered but they are not persuasive.

Rejection of claims 1-4, 7-15 and 25 under 35 U.S.C. 103(a) as being obvious over Duffy et al: (please refer to the rejection in the office action dated 11-17-03)

In maintaining the rejection, examiner stated that the rejection is maintained over the claims that do not recite cationic polymers. Applicants argue that all the claims require cationic polymers and hence the rejection is improper. However, instant claim 1 recites component b) is selected from the group consisting of cationic polymers and cationic surfactants. Duffy clearly teaches surfactants including the claimed cationic surfactants of (col. 7, lines 43-49). Thus, Duffy teaches the claimed components i.e., ascorbic acid, cationic surfactants and humectants. As explained in the previous action, instant claim 1 (and the claims dependent thereof) does not require water and further, Duffy clearly teaches preparing emulsions, such as oil -in-water or vice-versa. Applicants argue that instant claim 1 now recites water-soluble thus distinguishing from that Duffy. However, the amendment only reflects an intended effect, which is also achieved with the cationic surfactants of Duffy.

Rejection of claim 6 over Duffy in view of JP:

Applicants argue that Duffy teaches creams and lotions whereas JP teaches foams and that both cannot be combined. Applicants' arguments are not persuasive because instant claims do not recite argued limitation. Moreover, both references are directed to ascorbic acid containing formulations. JP clearly teaches that compositions containing ascorbic acid, plant extracts and cationic polymers enhance the shelf stability of the composition. Therefore, one of an ordinary skill in the art would employ cationic polymers in composition of Duffy with an expectation to enhance shelf stability because Duffy also desires to enhance the stability of ascorbic acid containing compositions.

Rejection of claims 16-24 as being obvious over Duffy in view of Mukherjee et al:

Applicants argue that the two references are directed to solving the problem of stability in different ways and that one cannot combine the two references to arrive at the instant invention. However, both Mukherjee and Duffy are directed to preparing stable ascorbic acid compositions and also employing surfactants. Further, Mukherjee states that preparing emulsions with sepigel, one of the claimed surfactants of the instant invention, to obtain a stable emulsion. The teachings of Mukherjee and Duffy are analogous as the references are directed to stability of ascorbic acid and therefore the combination of the references is logical.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala
Examiner
Art Unit 1615

March 21, 2005

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600